

Assembly Bill No. 1905

CHAPTER 268

An act to amend Sections 1228.1 and 1228.2 of the Water Code, relating to water rights.

[Approved by Governor August 22, 2014. Filed with
Secretary of State August 22, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1905, Alejo. Water rights: appropriation: small domestic, small irrigation, and livestock stockpond use.

The Water Rights Permitting Reform Act of 1988 authorizes any person to obtain a right to appropriate water for a small domestic, small irrigation, or livestock stockpond use, as defined, upon registering the use with the State Water Resources Control Board, as prescribed, payment of a registration fee, and application of the water to reasonable and beneficial use with due diligence. Existing law defines "livestock stockpond" to mean a water impoundment structure constructed for livestock watering use not to exceed specified diversion amounts, including impoundment for incidental aesthetic, recreational, or fish and wildlife purposes.

This bill would provide that impoundment for incidental fire protection purposes is included within livestock stockpond use.

Existing law, with regard to an appropriation for small domestic use, prohibits a registration from being filed if the facility is already served by or used pursuant to a permit or license for domestic or municipal use.

This bill would permit a small domestic use registration and a livestock stockpond use registration to be in effect for the same facility if the total combined water use covered by the registrations does not exceed 10 acre-feet per annum.

Existing law permits a small domestic use registration and a small irrigation use registration to be in effect for the same facility if the total combined water use covered by the registrations does not exceed 20 acre-feet per annum.

This bill would extend this authorization to a livestock stockpond use registration and a small irrigation use registration in effect for the same facility.

The people of the State of California do enact as follows:

SECTION 1. Section 1228.1 of the Water Code is amended to read:

1228.1. (a) The Legislature finds and declares that it is in the public interest to provide a timely, efficient, and economic procedure for the

acquisition of rights to appropriate water for a small domestic use, including incidental stock watering and irrigation uses, a small irrigation use, and for a livestock stockpond subject to prior rights.

(b) As used in this article:

(1) “Small domestic use” means a domestic use, as that use is defined by board rule, or a use for aesthetic, fire protection, recreational, or fish and wildlife purposes that is associated with a dwelling or other facility for human occupation, that does not exceed direct diversion of 4,500 gallons per day or diversion to storage of 10 acre-feet per annum.

(2) “Small irrigation use” means either of the following:

(A) An irrigation use, heat control use, or frost protection use, not to exceed diversion to storage of 20 acre-feet per annum, including impoundment for incidental aesthetic, fire protection, recreational, or fish and wildlife purposes.

(B) An irrigation use not to exceed direct diversion of 42,000 gallons per day, up to a maximum of 20 acre-feet per annum.

(3) “Livestock stockpond” means a water impoundment structure constructed for livestock watering use not to exceed direct diversion of 4,500 gallons per day, or diversion to storage of 10 acre-feet per year, as that use is defined by the board, and including impoundment for incidental aesthetic, fire protection, recreational, or fish and wildlife purposes.

SEC. 2. Section 1228.2 of the Water Code is amended to read:

1228.2. (a) (1) Subject to subdivision (b), any person may obtain a right to appropriate water for a small domestic, small irrigation, or livestock stockpond use upon first registering the use with the board and thereafter applying the water to reasonable and beneficial use with due diligence.

(2) With regard to an appropriation for small domestic use, a registration shall not be filed for a facility served by or used pursuant to a permit or license for domestic or municipal use, and not more than one small domestic use registration shall be in effect at any time for any facility. A small domestic use registration and a livestock stockpond use registration may be in effect for the same facility if the total combined water use covered by the registrations does not exceed 10 acre-feet per annum.

(3) With regard to an appropriation for small irrigation use, more than one registration may be in effect at any time for a registrant if the diversion or storage facilities subject to registration for a registrant do not exceed the ratio of one per 20 irrigated acres, and if the total water use on all acreage covered by the registrations, including any water use based on other rights, does not exceed 100 acre-feet per annum.

(4) A small domestic use registration and a small irrigation use registration, or a livestock stockpond use registration and a small irrigation use registration, may be in effect for the same facility only if the total combined water use covered by the registrations does not exceed 20 acre-feet per annum.

(5) With regard to an appropriation for livestock stockpond use, more than one registration may be in effect at any time for a registrant if

stockponds subject to registration for that registrant do not exceed the ratio of one per 50 acres.

(b) Initiation of rights to appropriate water pursuant to this article shall be subject to Article 1.3 (commencing with Section 1205), relating to fully appropriated stream systems. The board shall not accept any registration of water use which proposes as a source of water supply any stream system which has been unconditionally declared by the board to be fully appropriated pursuant to Section 1205, except that subdivision (b) of Section 1206, relating to conditional declarations of fully appropriated stream systems, shall apply to registration of water use pursuant to this article, and the board shall accept those registrations where consistent with the conditions specified in the declaration.

(c) On or before June 30, 1989, and annually thereafter, the Division of Water Rights shall prepare and post on its Internet Web site information summarizing the location, nature, and amount of water appropriated pursuant to this article. The information shall include a description of the availability of unappropriated water in those stream systems which may become fully appropriated within the next reporting period.

(d) If a registration is filed with a source of supply on a stream system that the most recent report submitted under subdivision (c) identifies as a stream system that may become fully appropriated within the next reporting period, the registration shall not take effect unless the board finds that unappropriated water is available for the appropriation proposed by the registration. If the board finds that unappropriated water is not available to supply the proposed appropriation, the board shall, following notice and hearing, determine whether that stream system should be declared fully appropriated pursuant to Article 1.3 (commencing with Section 1205).